

THE HONORABLE ROBERT S. LASNIK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
IN SEATTLE**

BARCELO HOMES, INC., a Washington  
corporation; BARCELO MADISON  
PARK, LLC, a Washington limited  
liability company,

Plaintiffs,

v.

KINSALE INSURANCE COMPANY, a  
foreign insurance company,

Defendant.

KINSALE INSURANCE COMPANY, a  
foreign insurance company,

Counterclaim and Third-  
Party Plaintiff,

v.

BARCELO HOMES, INC., a Washington  
corporation; BARCELO MADISON  
PARK, LLC, a Washington limited  
liability company,

Counterclaim Defendant,

No. 2:20-cv-01719-RSL

STIPULATED MOTION:

(1) TO DISMISS CERTAIN PARTIES;

(2) TO REALIGN REMAINING  
PARTIES;

(3) TO SUBSTITUTE COUNSEL;  
AND

(4) TO STAY LITIGATION

**NOTE ON MOTION CALENDAR:**  
12/23/2021

STIPULATED MOTION - 1

**CASE NO.** 2:20-cv-01719-RSL

LEATHER LAW GROUP  
1848 WESTLAKE AVENUE N, SUITE 100  
SEATTLE, WA 98109  
P: (206) 467-5444 F: (206) 467-5544

1  
2 and

3 TRIBRACH CAPITAL, LLC, a  
4 Washington limited liability company;  
5 ODESSA CONDOMINIUM OWNERS  
6 ASSOCIATION, a Washington  
7 corporation; HENRY DAVID  
8 KENYON and MEREDITH WILKE  
9 KENYON, individuals and marital  
10 community; DANIEL LEVINE, an  
11 individual.

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13 Third-Party Defendants.

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**I. INTRODUCTION**

24 This insurance coverage dispute arose out of two underlying lawsuits: *Odessa*  
25 *Condominium Owners Association, et al. v. Barcelo Madison Park, LLC, et al.*, King County  
26 Superior Court Case Number 19-2-14747-4; and *Tribrach Capital v. Barcelo Homes, Inc. et*  
27 *al.*, King County Superior Court Case Number 19-2-19843-5.

28 The underlying *Odessa* matter has fully settled and there no longer remains any  
29 actual and justiciable controversy in this matter regarding the *Odessa* parties. As such,  
30 Odessa Condominium Owners Association, Henry David Kenyon, Meredith Wilke Kenyon,  
31 Daniel Levine, and Barcelo Madison Park, LLC may be dismissed from this matter.

32 The underlying *Tribrach* case was resolved by (among other things) Barcelo Homes,  
33 Inc. (BHI) assigning its rights against Kinsale to the claimant in that case, Tribrach Capital,  
34 LLC, who is represented by Tristan Swanson. Because Mr. Swanson's client now possesses  
35 the remaining BHI claims asserted in this lawsuit, the parties seek to have Mr. Swanson  
36 substituted in as counsel for BHI. The remaining parties agree that within 30 days after entry  
37 of the Court's Order, they will present a stipulated motion and proposed order granting

STIPULATED MOTION - 2

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1 Tribrach leave to file an Amended Complaint pursuant to LCR 15, and providing Kinsale  
2 with 30 days to file an Answer thereto.

3 In addition, because the *Tribrach* case was resolved through a consent judgment  
4 settlement, the amount of that settlement will be subject to a RCW 4.22.060 Reasonableness  
5 Hearing before the King County Superior Court. The remaining parties to this action hereby  
6 jointly move for an Order Staying this case so that the parties may direct their efforts to the  
7 Reasonableness Hearing, with the exception of the stipulation and proposed order regarding  
8 amended pleadings, which the remaining parties will present within 30 days after entry of  
9 the Court's Order.

## 10 II. STIPULATION

11 Based on the foregoing, and in accordance with LCR 15 and LCR 83.2(b)(1), the  
12 parties hereby Stipulate and Agree to the following:

13 1. That Odessa Condominium Owners Association, Henry David Kenyon,  
14 Meredith Wilke Kenyon, Daniel Levine, and Barcelo Madison Park, LLC should be  
15 dismissed from this matter with prejudice and without recovery by or against them.

16 2. That the parties should be realigned to reflect the current matters remaining in  
17 dispute. Specifically, Tribrach Capital, LLC should be realigned as the Plaintiff in this  
18 matter as the assignee of Barcelo Homes, Inc.

19 3. That Tristan Swanson of Miller Nash LLP should be substituted as counsel  
20 for Barcelo Homes, Inc. and that Todd C. Hayes and Harper | Hayes PLLC shall be granted  
21 leave to withdraw as counsel for Barcelo Homes, Inc.

22 4. That within 30 days after entry of the Court's Order, the remaining parties  
23 shall present a stipulated motion and proposed order granting Tribrach leave to file an

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1 Amended Complaint pursuant to LCR 15, and providing Kinsale with 30 days to file an  
2 Answer thereto.

3 5. That this matter should be otherwise stayed pending resolution of the  
4 Reasonableness Hearing in the *Tribrach* matter. The remaining parties propose that the  
5 Court order them to present a joint status report within twenty (20) days of completion of the  
6 Reasonableness Hearing.

7 It is so stipulated.

8 DATED this 23<sup>rd</sup> day of December 2021.

9 HARPER | HAYES PLLC

MILLER NASH LLP

10 By: s/ Todd C. Hayes

By: s/ Tristan Swanson

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15 Withdrawing Attorneys for Plaintiffs  
16 Barcelo Homes, Inc. and Barcelo  
17 Madison Park, LLC

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Substituting Attorneys for Plaintiff  
Barcelo Homes, Inc. and attorneys for  
Third-party Defendant Tribrach  
Capital, LLC

16 LETHER LAW GROUP

RAFEL LAW GROUP PLLC

18 By: s/ Eric J. Neal

By: s/ Anthony L. Rafel

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Party Plaintiff Kinsale Insurance  
Company

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Attorneys for Third-Party Defendants  
Odessa Condominium Owners  
Association, Henry David and  
Meredith Wilke Kenyon, and Daniel  
Levine

STIPULATED MOTION - 4

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**III. ORDER**

The Court has reviewed the above stipulation AND HEREBY ORDERS:

1. That Odessa Condominium Owners Association, Henry David Kenyon, Meredith Wilke Kenyon, Daniel Levine, and Barcelo Madison Park, LLC are hereby DISMISSED from this matter with prejudice and without recovery by or against them.

2. That the parties are hereby realigned to reflect the current matters remaining in dispute. The Plaintiff in this matter shall be Tribach Capital, LLC, as the assignee of Barcelo Homes, Inc., and the Defendant/Counterclaimant shall be Kinsale Insurance Company.

3. That within 30 days after entry of the Court's Order, the remaining parties shall present a stipulated motion and proposed order granting Tribach leave to file an Amended Complaint no later than thirty (30) days after entry of this Order. Kinsale Insurance Company shall file an Answer to Tribach's Amended Complaint within thirty (30) days of Tribach's filing.

4. That Tristan Swanson of Miller Nash LLP is substituted as counsel for Barcelo Homes, Inc., and that Todd C. Hayes and Harper | Hayes PLLC are hereby granted leave to withdraw as counsel for Barcelo Homes, Inc.

5. That this matter is hereby STAYED pending resolution of the Reasonableness Hearing in the *Tribach* matter, except as provided in Paragraph 3 of this Order. The remaining parties shall file a joint status report within twenty (20) days of completion of the Reasonableness Hearing.

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DATED this 27th day of December, 2021.



ROBERT S. LASNIK  
UNITED STATES DISTRICT JUDGE

Presented by:

HARPER | HAYES PLLC

MILLER NASH LLP

By: s/ Todd C. Hayes

Todd C. Hayes, WSBA No. 26361  
Withdrawing attorneys for Barcelo  
Homes, Inc. and Barcelo Madison  
Park, LLC

By: s/ Tristan Swanson

Tristan Swanson, WSBA No. 41934  
Substituting Attorneys for Plaintiff  
Barcelo Homes, Inc. and attorneys for  
Third-party Defendant Tribach  
Capital, LLC

LEATHER LAW GROUP

RAFEL LAW GROUP PLLC

By: s/ Eric J. Neal

Thomas Lether, WSBA No. 18089  
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Attorneys for Defendant and Third-  
Party Plaintiff Kinsale Insurance  
Company

By: s/ Anthony L. Rafel

Anthony L. Rafel, WSBA No. 13194  
Attorneys for Third-Party Defendants  
Odessa Condominium Owners  
Association, Henry David and Meredith  
Wilke Kenyon, and Daniel Levine

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the penalty of perjury under the laws of the United States of America that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the following party(ies):

Todd C. Hayes  
Harper | Hayes LLC  
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600 University Street, Suite 2420  
Seattle, WA 98101  
todd@harperhayes.com

Tristan N. Swanson  
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Anthony Rafel  
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**By:**        ☒ **ECF**        ☐ **First Class Mail**

Dated this 23<sup>rd</sup> day of December, 2021 at Seattle, Washington.

s/ Judy Tustison  
Judy Tustison, Paralegal

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